

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF A POSSIBLE VACANCY)	CASE NO.
ON THE BOARD OF COMMISSIONERS OF)	2015-00352
WESTERN PULASKI COUNTY WATER)	
DISTRICT)	

ORDER

Western Pulaski County Water District (“Western Pulaski District”) has advised the Commission in writing of the existence of a vacancy on its Board of Commissioners due to the expiration of the term of Water District Commissioner Jimmy Dalton. By this Order, we appoint Jimmy Dalton to fill the vacancy.

Western Pulaski District is a water district organized pursuant to KRS Chapter 74, and it owns and operates facilities used in connection with the distribution and furnishing of water for compensation to approximately 8,251 customers in portions of Pulaski, Wayne, and Russell counties.¹ A five-member Board of Commissioners administers Western Pulaski District² and has the statutory responsibility to “control and manage” the affairs of the water district.³

On October 26, 2015, the Commission received a letter from Don Calder, chairman of the Board of Commissioners of Western Pulaski District, that advised the Commission that the term of Jimmy Dalton as a commissioner of Western Pulaski

¹ *Report of Western Pulaski Water District to the Kentucky Public Service Commission for the Year Ended December 31, 2014* at 14 and 53.

² *Id.* at 16.

³ KRS 74.020(1).

District was believed to have expired on May 22, 2015.⁴ Chairman Calder, in his letter, nominated Jimmy Dalton to fill the vacancy.⁵ On December 9, 2015, the Commission opened this case to investigate whether a vacancy exists on the Board of Commissioners of Western Pulaski District.

In our December 9, 2015 Order, we also stated that anyone who wished to nominate a person to fill the vacancy was required to submit the nomination to the Commission, in writing, within 20 days of the date of the Order, and we directed the Commission's Executive Director to serve a copy of the Order upon the Pulaski County Judge/Executive, the members of the Pulaski County Fiscal Court, the Pulaski County Attorney, and the Western Pulaski Board.⁶ Chairman Calder's nomination of Jimmy Dalton is the only nomination to fill the vacancy submitted to the Commission.

As part of the investigation, the Commission made a request for Jimmy Dalton to file with the Commission responses to requests for information.⁷ Mr. Dalton filed his responses to the requests for information on February 29, 2016. During the investigation, the Commission determined that, by an Order entered on January 16, 2013, in Case No. 2012-00052, the Commission appointed Jimmy Dalton to fill a then-existing vacancy on Western Pulaski District's Board of Commissioners; further, the term expired on May 22, 2015.⁸

⁴ Letter from Don Calder to the Public Service Commission dated October 20, 2015 (filed Jan. 29, 2016).

⁵ *Id.*

⁶ Order (Ky. PSC Dec. 9, 2015) at 4.

⁷ Order (Ky. PSC Feb. 12, 2016) at 3.

⁸ Case No. 2012-00052, *Request to Fill Vacancies on Western Pulaski County Water District Board of Commissioners*, (Ky. PSC Jan. 16, 2013) at 4.

DISCUSSION

KRS 74.020(4) addresses vacancies on a water district's board and states:

Vacancies shall be filled by the same appointing authority which is empowered to make the original appointment. Vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only. Notwithstanding KRS 67.710, a vacancy resulting from the expiration of a term or the death, resignation, or removal of the incumbent shall be filled by the Public Service Commission if, within ninety (90) days following the vacancy, the vacancy has not been filled by the appropriate county judge/executive with approval of the fiscal court.

The Commission finds that Jimmy Dalton was appointed to fill a vacancy on the Western Pulaski District Board of Commissioners on January 16, 2013, by Order of the Commission in Case No. 2012-00052, and further finds that the term expired on May 22, 2015.⁹ The Commission finds that the position became vacant on May 22, 2015, and that the vacancy has existed for more than 90 days. We find that, pursuant to KRS 74.020(4), the Commission has the exclusive authority to fill a vacancy that has existed for more than 90 days and, therefore, we have the exclusive authority to fill the vacancy created by the expiration of Mr. Dalton's term on May 22, 2015.

Jimmy Dalton has been nominated for consideration for appointment to fill the vacant position. Mr. Dalton's experience includes service on Western Pulaski District's Board of Commissioners for a term that commenced in May 2007 and expired on May 10, 2011, and for a term that commenced on January 16, 2013, and expired on May 22, 2015.¹⁰

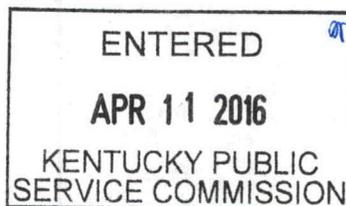
⁹ *Id.*

¹⁰ *Id.*, and Order (Ky. PSC Feb. 27, 2012) at 1.

Based upon the review of the evidence of record, we find that Mr. Dalton resides within the territorial boundary of Western Pulaski District and that Mr. Dalton possesses adequate education, training, and experience to perform the duties of a water district commissioner. We find that Mr. Dalton should be appointed and approved to fill the vacant position for the recommended term. We find that Mr. Dalton's appointment does not constitute an "initial appointment" as that phrase is used in KRS 74.020(8)(b); however, we encourage Mr. Dalton to attend water district management training programs on an annual basis.

IT IS THEREFORE ORDERED that Jimmy Dalton is appointed to fill the existing vacancy on Western Pulaski County Water District's Board of Commissioners. His term shall expire on May 22, 2019.

By the Commission



ATTEST:


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